

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JUNE 15, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of June 15, 2005, was called to order by Mayor Beckman at 6:00 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; *Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al.*, Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- d) Actual litigation: Government Code §54956.9(a); one case; *Fireman's Fund Insurance Company v. City of Lodi, et al.*, United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM
- e) Actual litigation: Government Code §54956.9(a); one case; *City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al.*, San Joaquin County Superior Court, Case No. CV025569

C-3 ADJOURN TO CLOSED SESSION

At 6:00 p.m., Mayor Beckman adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:40 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Beckman reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), (b), (c), and (d), Council approved the Folger, Levin & Kahn litigation budget for the period of July through December 2005 in an amount up to \$2.1 million.

In regard to Item C-2 (e), Council approved a limited waiver of the closed session privilege on an as needed remedy basis, giving the City Attorney authority to handle it as necessary, to litigate the case against Michael Donovan and Envision Law Group.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of June 15, 2005, was called to order by Mayor Beckman at 7:00 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Reverend Richard Matters, St. John the Baptist Episcopal Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Beckman.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Pam Bechill, representing the Lodi Area All Veterans Plaza Foundation, presented a check in the amount of \$10,000 to Mayor Beckman on behalf of the City toward the quarterly payment on loan from the City of Lodi. She noted that this was the tenth payment making a total contribution to date of \$100,000.

D-3 (b) John Ledbetter, Chairman of the Hutchins Street Square Foundation, presented a monetary gift of \$100,000 to Mayor Beckman on behalf of the City toward payment of the Hutchins Street Square Performing Arts Center. In addition, he presented a check for \$25,000 as the Foundation's share of the administration at the Square. He reported that the membership program has grown to 280 single and family memberships and five corporate members. Over 6,000 bricks have been sold, raising over \$300,000. Mr. Ledbetter reviewed upcoming events and projects.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Hitchcock, Mounce second, unanimously approved the following items hereinafter set forth:

E-1 Claims were approved in the amount of \$1,777,952.28.

E-2 The minutes of April 20, 2005 (Regular Meeting), May 10, 2005 (Shirtsleeve Meeting), May 24, 2005 (Shirtsleeve Session), and May 31, 2005 (Shirtsleeve Session) were approved as written.

E-3 Authorized the City Manager to approve inventory replenishment orders in excess of \$5,000 for Water and Wastewater utility maintenance and repair items purchased during July 2005.

E-4 Adopted Resolution No. 2005-118 authorizing the submittal of two Safe Route to School grant applications in the total amount of \$197,000 to the California Department of Transportation.

E-5 Adopted Resolution No. 2005-119 authorizing the City Manager to execute a cooperative agreement with San Joaquin Council of Governments for the City of Lodi Grapeline Express operating services for fiscal years 2005-06 to 2007-08.

E-6 Accepted the memorial bench and plaque donation for Vinewood Dog Park from Yvonne Perrin in honor of Jerry Perrin.

E-7 Authorized funds from the Protocol Account and directed the City Clerk to coordinate the Council-hosted reception honoring members of all City Council-appointed boards, commissions, committees, and task force groups for an approximate amount of \$2,400.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen stated that he was adamantly opposed to the recent proposal to build an Indian gaming casino on the outskirts of Lodi. He was disappointed at the poor turnout last night at the Veterans Plaza event and hoped that more people would participate in the future.
- Mayor Pro Tempore Hitchcock commended Community Center Director Silvestre and the Arts Commission for the excellent Art on the Square event and expressed her surprise that more people did not attend the free event.
- In reference to the Indian gaming casino proposal, Council Member Johnson stated that because of the City's current financial situation, any meaningful opportunity to legitimately raise revenue should be considered.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King reported that the City is currently accepting applications for the position of Community Development Director. It is being advertised through print publications, on-line, and direct mail. The closing date for applications is July 8, and Mr. King expected to have applications presented to him by the executive search firm on July 12. He stated that on June 13 a meeting took place with representatives of the Department of Justice, the FBI, Police Chief Adams, Police Captain Manetti, and himself to discuss issues related to the ongoing investigation effecting Lodi. He thanked law enforcement officials for their diligence and the work they are doing on behalf of protecting the country and citizens.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the continued public hearing to adopt by resolution the 2005-06 Financial Plan and Budget and the 2005-06 Appropriations Spending Limit.

City Manager King recalled that presentations regarding the 2005-06 Financial Plan and Budget were heard at the meetings of May 4, May 11, May 18, May 24, and June 1. He recommended that Council approve the budget as presented.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Mayor Beckman stated that he would like to remove all the vacant positions from the budget.

Council Member Hansen preferred to leave the vacant positions in the budget, as he felt it gave the City Manager the flexibility he needs. He asked the City Manager to explain why it is necessary to make a transfer from the Rate Stabilization Fund to the Electric Revenue Fund.

Mr. King explained that when the City issued its previous bonds there was money held in reserve to protect against rate fluctuations. The cost of bulk power purchases has increased during the course of 2004-05. The transfer is being recommended in order to provide for the coverage factor. It will also help to postpone any liquidity or cash needs the City may have with regard to Electric Utility. It will be necessary to replenish the reserve; however, the transfer is needed now to ensure the Utility avoids a technical default based upon what was told to investors of the 1999-2002 bonds.

Finance Director Krueger reported that the Rate Stabilization Fund was established several years ago and now has a balance of \$6.3 million. After the transfer, the Fund will have a remaining balance of \$1.8 million. In reference to the proposed overall budget total, Mr. Krueger explained that adjustments were made since the original amount was submitted to Council and the correct figure is \$159,133,460.

Mayor Pro Tempore Hitchcock stated that the best argument against eliminating vacant positions from the budget is that they occurred through attrition rather than through prioritization. Leaving the positions in the budget allows the City Manager flexibility to make determinations for filling positions based on what is most important to efficiently and effectively run the City.

In answer to Council Member Johnson, Mr. King stated that the Council does not have to approve filling an authorized unfilled position.

Council Member Johnson stated that he was not in support of removing vacant positions from the budget. He asked whether the City can use money dedicated to infrastructure replacement, toward the Environmental Abatement Program (EAP).

City Attorney Schwabauer answered in the affirmative and noted that the EAP is a program within the water/wastewater accounts. Staff will be recommending that the monies be paid back to the infrastructure replacement account.

Council Member Mounce asked that Council be provided with accountings of what money is taken from the infrastructure program to fund the EAP. She wanted to ensure that the infrastructure program continues and funding is monitored.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, unanimously adopted Resolution No. 2005-120 adopting the 2005-06 Operating and Capital Improvement Budget for the fiscal year beginning July 1, 2005 and ending June 30, 2006, with the exclusion of the Lodi Conference and Visitors Bureau element, and further approving the 2005-06 Appropriation Spending Limit.

NOTE: Due to a potential conflict of interest stemming from his wife's employment with the Lodi Conference and Visitors Bureau, Mayor Beckman abstained from discussion and voting on this matter and vacated his seat at dais at 7:45 p.m.

MOTION #2 / VOTE:

The City Council, on motion of Council Member Mounce, Johnson second, adopted Resolution No. 2005-121 approving funding in the amount of \$123,500 to the Lodi Conference and Visitors Bureau for fiscal year 2005-06. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Beckman

Mayor Beckman returned to his seat at 7:46 p.m.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider resolutions adopting Final Engineer's Annual Levy Report for Lodi Consolidated Landscape Maintenance Assessment District Nb. 2003-1, Fiscal Year 2005-06, and ordering the levy and collection of assessments.

Public Works Director Prima reported that, over the past two years, seven zones of Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 were formed. The scope of maintenance activities funded by the District include: 1) landscape and irrigation, 2) masonry block walls, 3) street parkway trees, and 4) public park areas. It is recommended that Council approve the Final Engineer's Report and order the levy and collection of the assessments.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted the following resolutions:

- Resolution No. 2005-122 approving the Final Engineer's Annual Levy Report for the Lodi Consolidated Landscape Maintenance District No. 2003-1, fiscal year 2005-06; and
- Resolution No. 2005-123 ordering the levy and collection of assessments within the Lodi Consolidated Landscape Maintenance District No. 2003-1, fiscal year 2005-06.

- I-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider Reimbursement Agreement RA-05-01 establishing an area of benefit and reimbursable costs for public improvements for Legacy Estates, Unit No. 1, Tract No. 3260.

Public Works Director Prima reported that the developer, FCB Building Partners, for the Legacy Estates project installed a pipeline in Harney Lane that serves its project and was oversized to serve properties to the west. When those properties develop and connect to the sewer they will pay back their prorated share of the portion of this project.

In answer to Council Member Mounce, Mr. Prima confirmed that Henderson Village was not included in this assessment.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2005-124 establishing an area of benefit and reimbursable costs for public improvements for Legacy Estates, Unit No. 1, Tract No. 3260.

J. COMMUNICATIONS

- J-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Mayor Beckman, Mounce second, unanimously rejected the following claims:
- a) The Salvation Army, date of loss 2/5/04
 - b) Town & Country Park Association, date of loss 12/25/03

J-2 The following postings/appointments were made:

a) The City Council, on motion of Mayor Beckman, Mounce second, ***pulled Item J-2a***, "Post for vacancy on the Lodi Animal Shelter Task Force," from the agenda. *Note: This item was subsequently continued to July 6, 2005.*

b) The City Council, on motion of Council Member Mounce, Johnson second, unanimously made the following appointments:

Lodi Arts Commission

Judy Bader	Term to expire July 1, 2008
Rick Buchler	Term to expire July 1, 2008
John Callahan	Term to expire July 1, 2008
Cynthia Inman	Term to expire July 1, 2008

Lodi Improvement Committee

Brad Eilert	Term to expire March 1, 2007
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Planning Commission

William Cummins	Term to expire June 30, 2009
Doug Kuehne	Term to expire June 30, 2009

Mayor Pro Tempore Hitchcock stated that former Planning Commissioners Dave Phillips and Tim Mattheis did an excellent job on the Commission. As the action this evening eliminated Dave Phillips from the Greenbelt Task Force, Ms. Hitchcock asked that Planning Commissioner Gina Moran be appointed to fill the vacancy.

J-3 Miscellaneous

a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through May 31, 2005.

K. REGULAR CALENDAR

K-1 "Adopt resolution ratifying the San Joaquin Council of Government's Annual Financial Plan for fiscal year 2005-06"

Steve Dial, Director of Administration/Chief Financial Officer of the San Joaquin Council of Governments (SJCOG), reported that its 2005-06 annual financial plan totals \$5.2 million, which is a 16% increase over its 2004-05 budget. There is no increase in SJCOG staff; however, consultant services for engineering, planning, and legal services was increased nearly 42%. SJCOG is anticipating a \$300,000 project to do a feasibility study on State Route 130, which would connect the west side of the San Joaquin Valley at I-5 into the Santa Clara Valley area.

MOTION/ VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously adopted Resolution No. 2005-125 ratifying SJCOG's Annual Financial Plan for fiscal year 2005-06.

K-2 "Consider approval of street closures on Rose Street between Oak Street and Walnut Street and on Walnut Street between Rose Street and the Hutchins Street Square Parking Lot and the use of the park area at Hutchins Street Square for the Family Faith Festival"

Public Works Director Prima reported that a request was received from Cheryl Biddle McLachlan to close Rose Street between Oak and Walnut Streets and Walnut Street between Rose Street and the Hutchins Street Square parking lot, and to have use of the park area on the west side of Hutchins Street Square for the Family Faith Festival on August 7. Mr. Prima noted that the City does not have a formal policy on street closures. He recommended that the ten conditions listed in the staff report (filed) be included if the request is approved.

PUBLIC COMMENTS:

- Cheryl Biddle McLachlan stated that the band would be located on the stage of the lawn area and the music would end at 9:30 p.m. She noted that the Family Faith Festival event had been held in downtown Lodi for the past three years and had drawn as many as 15,000 people over the course of the day. The relocation request is being made to allow more room for the concert, and because it is a summer event the grass location is cooler than the street area downtown. Ms. McLachlan reported that she spoke with 30 of the 44 residents surrounding the Hutchins Street Square location and 29 signed a petition of support to have the event at that location. Most of the residents have alley access, so the street closure would not prevent them from getting in and out of their property. She estimated that there would be 2,000 people per hour with 3,000 attendees at the stage area when the band is playing.

Community Center Director Silvestre reported that, typically, events at the Square attract 3,000 to 5,000 people over the course of a day and it has been an impact to the neighborhood. There are 200 parking spaces at the Square.

Mayor Beckman and Mayor Pro Tempore Hitchcock expressed concern about parking and suggested that a shuttle be provided to and from the downtown parking garage.

In response to Council Member Johnson, Ms. McLachlan stated that she did not believe the event would require both street closures.

Council Member Johnson suggested that the Square be filled before the streets were closed and, if necessary, close Walnut Street so it impacts the residents the least, to which Ms. McLachlan agreed.

- Pastor Steve Jarrett spoke in support of the event and commented that it is recognized nationally. He guaranteed Council that those involved in the Festival would make it a positive community event.

Mayor Pro Tempore Hitchcock agreed that it would be preferable to close off Walnut Street between Rose and Hutchins Streets.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Beckman second, unanimously approved street closures as requested with conditions as recommended by staff (outlined in staff report) and to encourage Family Faith Festival organizers to arrange the event so that only Walnut Street is closed.

City Manager King mentioned that staff would be drafting a policy for future Council consideration related to a fee for renting the grounds of Hutchins Street Square, because such events prevent the rental of the rest of the facility.

Mayor Pro Tempore Hitchcock suggested that a limitation on how many times per year such events can be held at the Square also be included in the policy.

- K-3 "Authorize the City Manager to execute Industrial Waste Connection Memorandum of Understanding with Van Ruiten Family Winery as Downtown revitalization business attraction incentive"

City Manager King stated that in the Downtown Revitalization Plan there is a lot of discussion about selecting the right tenant mix of businesses that would attract people, and to provide incentives to businesses to locate downtown. City staff involved with economic development have formed a close association with wine industry representatives. The proposed Memorandum of Understanding (MOU) was developed to create an incentive for the Van Ruiten Family Winery to locate a tasting room in downtown Lodi. The Winery,

which is outside the City limits, would obtain a discharge permit from the City with various discharge limitations and conditions and would pay 150% of the standard rate for industrial discharge, amounting to approximately \$4,100 annually.

Public Works Director Prima noted that the winery industry is struggling with wastewater requirements being imposed by the Regional Board. In this proposal, the Van Ruiten Winery would be able to dispose of its winery waste, approximately one million gallons a year, through the City's industrial waste line. He reported that the City now receives well over 200 million gallons a year of industrial waste from businesses in the community and processes 6.5 million gallons a day from the rest of the City. The Van Ruiten Winery would bear the cost of the connection, the capacity fee for hooking up, and ongoing service charges. The Lodi Municipal Code currently prohibits wastewater service to facilities or properties outside the city limits. An amendment would be necessary to allow industrial waste connections under limited circumstances. He noted that the pipeline from the City to White Slough crosses the Van Ruiten property, so there would be no extension of public utilities. There would be a private connection from the Van Ruiten facility to the pipeline that exists now. There would not be domestic service. Mr. Prima stated that, commonly, when sewer service is provided outside corporate boundaries the property owner signs a pre-annexation agreement.

PUBLIC COMMENTS:

- Ann Cerney commented that this issue was not considered by the Planning Commission. She suggested that the environmental review process be applied to this matter. She felt that any kind of infrastructure change, which indicates the intention of the City to further develop the area, was a growth inducing factor.

Mr. King responded that the MOU acknowledges that the California Environmental Quality Act may require environmental review of the project. He countered Ms. Cerney's statement by saying that when a City provides infrastructure it has the ability to control growth. He added that this has been realized in other areas of the state where the control of infrastructure is secondary to zoning regulations.

- Pat Patrick, President of the Lodi Chamber of Commerce, estimated that 500 wine tasters visit the Lodi area each weekend. The Lodi Wine Country Marketing Committee is working on directional signage, with the Lodi Arch logo that will be placed at various intersections around the greenbelt area. He believed that a tasting room downtown would promote the development of fine dining.
- Mary Wallace, President of the Downtown Lodi Business Partnership (DLBP), reported that the downtown area is fragile and businesses are leaving. The DLBP has partnered with others to try and make Lodi a destination place. She felt that it was an excellent idea to have tasting rooms in the downtown area.
- Mark Chandler, Executive Director of the Lodi-Winegrape Commission, spoke in support of the proposal and felt that its approval would be another demonstration of Council's commitment to economic development.

Mayor Pro Tempore Hitchcock expressed concerns that the proposal is growth inducing and sets a precedent for providing wastewater service outside the city limits. She reported that the Greenbelt Task Force has been working on ideas to preserve open space and agri-business in the Armstrong Road area. There is the possibility of a specific planned annexation that could provide wastewater services to promote wineries in the area. She was in favor of a tasting room in the downtown area and opposed to the options listed in Section 3, f, ii) of the agreement.

Mayor Beckman asked how many wastewater customers there were now outside of the city limits, to which Mr. Prima answered that there were none.

In response to Council Member Hansen regarding the "precedent" issue, City Attorney Schwabauer explained that Council can set the goals of the program, such as to preserve open space and the wine grape industry around Lodi. This would be a defensible goal and other projects, e.g. a County residential housing subdivision, would not be consistent with it. In addition, because Van Ruiten Winery would have a business in the downtown area, its waste is to serve a use within the City.

- Mark Fedorchak, President of the Van Ruiten Winery, confirmed that its intention was to create a downtown presence consistent with the MOU and to have a tasting bar, wine tasting room sales, and wine-related merchandise such as cookbooks, and culinary demonstrations. He felt that a tasting room is the missing piece in the downtown area to attract more wine-oriented culinary type activities and to make a positive statement about Lodi as a destination point.

Mr. King noted that the Van Ruiten's are considering teaming up with other wineries for this tasting room.

Following discussion, it was agreed to make the following amendments to the MOU:

- Section 3, e – Non-Assignment: Winery may not sell capacity or accept wastewater from other locations ~~without the express written consent of the City.~~
- Section 3, f, ii) – ~~As an alternative to opening a tasting room, winery may, at its option, open a Wine Related Establishment in downtown Lodi. As used herein Wine Related Establishment shall include restaurants, wine bars, and retail establishments selling wine or wine projects. (Note: With deletion of all further references to this subsection.)~~
- Section 3, f, iii) – If this condition cannot be met within ~~eighteen~~ **twelve** months of connection, Winery shall pay an annual downtown development and promotional in-lieu fee in the amount of \$40,000.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously authorized the City Manager to execute Industrial Waste Connection MOU, as amended, with Van Ruiten Family Winery as Downtown revitalization business attraction incentive.

RECESS

At 9:40 p.m., Mayor Beckman called for a recess, and the City Council meeting reconvened at 9:51 p.m.

I. REGULAR CALENDAR (Continued)

- K-4 "Adopt resolution transferring \$4,500,000 from the Rate Stabilization Fund to the Electric Revenue Fund and establishing a timeline to replenish the Rate Stabilization Fund"

Finance Director Krueger reported that there was a \$4.5 million budget deficit in Electric Utility due to bulk power purchases. The proposed resolution is intended to solve the deficit and ensure the Utility is in compliance with debt service coverage requirements. The City covenanted that it had 110% of its debt service covered with revenues versus expenditures. This action will convey to rating agencies that the City intends to maintain a healthy rate stabilization fund. A rate study will be completed by December 31, 2005.

In answer to questions posed by Mayor Pro Tempore Hitchcock, Mr. Krueger reported that the Rate Stabilization Fund has been in existence for about ten years. Approximately four years ago, it had a balance of "a couple million dollars." As a result of bond transactions, the City replenished the fund up to \$6 million. Over time, it earned interest and is now at \$6.3 million. City Manager King explained that staff felt it was appropriate that Council take affirmative action to transfer the funds. He acknowledged that transfers were made in the

past that did not involve Council action. He stated that the action being requested tonight was developed in consultation with a financial advisor and bond counsel. Electric Utility Director Vallow recalled that when he first began employment with Lodi he discovered that there was \$15 million to \$17 million belonging to the City at the Northern California Power Agency. Within the next two years, the money was brought into the City and placed in the Operating account and the Rate Stabilization Fund. Due to the energy crisis, the funds were drawn down. At the time of the 2002 Series A and B offering, the City took the four-year liquidity facility amounting to \$8.2 million, which was placed in the Operating account and Rate Stabilization Fund. On June 30, 2005, the final installment of \$1.1 million will be made toward paying back the \$8.2 million.

Mayor Pro Tempore Hitchcock asked whether the Rate Stabilization Fund was used for any other purpose other than what it was intended for, to which Mr. Krueger replied that he did not know. Ms. Hitchcock suggested that a written restriction be implemented so that use is limited only to rate stabilization purposes.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2005-126 transferring \$4,500,000 from the Rate Stabilization Fund to the Electric Revenue Fund and establishing a timeline to replenish the Rate Stabilization Fund.

- K-5 "Introduce ordinance amending Title 2, 'Administration and Personnel,' of the Lodi Municipal Code by adding Chapters 2.13 and 2.14 relating to the City Clerk and City Attorney"

City Attorney Schwabauer reported that the proposed ordinance clarifies that the City Attorney and City Clerk are to report directly to the Council without filter.

Mayor Beckman recalled that there was a problem previously with the former City Manager and City Attorney not understanding that they both independently had a specific duty and responsibility to come directly to Council with their ideas, concerns, and recommendations. He felt that the Code amendment was beneficial to clarify the matter.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Beckman second, unanimously introduced Ordinance No. 1762 amending Title 2, "Administration and Personnel," of the Lodi Municipal Code by adding Chapters 2.13 and 2.14 relating to the City Clerk and City Attorney.

- K-6 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and other various cases being handled by outside counsel (\$199,915.09), and approve Special Allocation covering general litigation matter expenses (\$5,559.70)"

City Attorney Schwabauer reviewed invoices as detailed in the staff report (filed).

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and other various cases being handled by outside counsel in the amount of \$199,915.09, and approved Special Allocation covering general litigation matter expenses in the amount of \$5,559.70, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount	Distribution	
					171399.7323	183453.7323
2002	87350	03/31/05	City of Lodi v Lehman	2,302.10	1,151.05	1,151.05
2003	87354	03/31/05	Farr Associates v City of Lodi	761.50		380.75
380.75						
2005	87353	03/31/05	Environmental Forensic v City of Lodi	6,486.59	3,243.30	3,243.30
2006	87351	03/31/05	Magellan Env. v City of Lodi	926.80	463.40	463.40
8001	87347	03/31/05	General Advice-Environ Matters	2,265.93	1,132.97	1,132.97
8002	87375	03/31/05	People v M&P Investments	112,073.76	56,036.88	56,036.88
				(5,003.00)	(2,501.50)	(2,501.50)
8003	87352	03/31/05	Hartford Insurance Coverage	13,998.96		6,999.48
6,999.48						
			Litigation			
8004	87349	03/31/05	People v Randtron	1,863.50	931.75	931.75
8006	87348	03/31/05	Fireman's Fund/Unigard Appeal	12,255.98	6,127.99	6,127.99
8007	87313	03/31/05	Regulatory Agency Orders	1,125.70	562.85	562.85
8008	87314	03/31/05	Envision Law Group	40,998.90	20,499.45	20,499.45
				(235.00)	(117.50)	(117.50)
				189,821.72	94,910.86	94,910.86

Kronick Moskowitz Tiedemann & Girard - Invoices Distribution

Invoice No.	Date	Description	Total Amount	Distribution		
				100351.7323	171399.7323	183453.7323
220031	04/25/05	On-Site Litigation Support	1,375.00		687.50	687.50
220032	04/25/05	General advice	1,297.68	1,297.68		
220032	04/25/05	Rogers v SJC	252.49	252.49	-	-
220032	04/25/05	Phelps v City of Lodi	662.57	662.57	-	-
220032	04/25/05	Sphere of Influence-White Slough	437.39		218.69	218.70
220032	04/25/05	City of Lodi v City of Stockton	440.02		220.01	220.01
220032	04/25/05	Stockton Family Farmers Coal.	38.86		19.43	19.43
220032	04/25/05	City of Stockton v City of Lodi	19.00	-	9.50	9.50
220032	04/25/05	Lodi First v City of Lodi	1,248.96	1,248.96		
220032	04/25/05	Citizens for Open Govt. v City of Lodi	2,098.00	2,098.00		
			7,869.97	5,559.70	1,155.13	1,155.14

***Requires Special Allocation for payment from General Fund (\$5,559.70).**

JAMS

Invoice No.	Date	Description	Total Amount	Distribution	
				171399.7323	183453.7323
0000989807-100	04/2005	Mediation Services	275.00	137.50	137.50
		Environmental Forensics v City of Lodi			
0000991228-110	04/2005	Mediation Services	1,948.40	974.20	974.20
		M & P Investments			
			2,223.40		

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1760 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 2 – Administration and Personnel Chapter 2.44 by Repealing in its Entirety Section 2.44.030 Relating to Maximum Age," having been introduced at a regular meeting of the Lodi City Council held June 1, 2005, the City Council, on motion of Mayor Beckman, Hitchcock second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

- L-2 Following reading of the title of Ordinance No. 1761 entitled, "An Ordinance Adopting the '2004 California Electrical Code,' Which Code Regulates the Installation, Alteration, or Addition of Electrical Wiring, Devices, Appliances, or Equipment in the City of Lodi; and Repealing and Re-Enacting Sections 15.16.010 Through 15.16.030 of the Codes of the City of Lodi, and All Other Ordinances and Parts of Ordinances in Conflict Therewith," having been introduced at a regular meeting of the Lodi City Council held June 1, 2005, the City Council, on motion of Mayor Beckman, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:18 p.m.

ATTEST:

Susan J. Blackston
City Clerk